



**4310-MN-P**

**DEPARTMENT OF THE INTERIOR**

Bureau of Reclamation

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Notice of Intent to Prepare an Environmental Impact Statement and Notice of Public Scoping Meetings for the Navajo Generating Station-Kayenta Mine Complex Project, Arizona

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Reclamation, as the lead Federal agency, and the Bureau of Indian Affairs and Office of Surface Mining Reclamation and Enforcement as key cooperating agencies, are initiating preparation of an Environmental Impact Statement for the proposed Navajo Generating Station-Kayenta Mine Complex (NGS-KMC) Project (Project). The Proposed Action would provide Federal approvals and/or decisions necessary to continue the operation and maintenance of NGS-KMC facilities through December 22, 2044.

**DATES:** Submit written comments on the scope of the Environmental Impact Statement on or before July 7, 2014.

Ten public scoping meetings will be held to receive comments on the scope of the Environmental Impact Statement. See the SUPPLEMENTARY INFORMATION section for meeting dates and times.

**ADDRESSES:** Send written comments on the scope of the Environmental Impact Statement to the Phoenix Area Office, Bureau of Reclamation (ATTN: NGSKMC-EIS),

6150 W. Thunderbird Road, Glendale, AZ 85306-4001; via facsimile to (623) 773-6486, or e-mail to [NGSKMC-EIS@usbr.gov](mailto:NGSKMC-EIS@usbr.gov).

Please see SUPPLEMENTARY INFORMATION section for meeting locations.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Eto, (623) 773-6254, or by e-mail at [NGSKMC-EIS@usbr.gov](mailto:NGSKMC-EIS@usbr.gov). Additional information is available online at <http://www.ngskmc-eis.net>.

**SUPPLEMENTARY INFORMATION:** Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4231-4347; the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR Parts 1500 through 1508; and the Department of the Interior's (DOI) regulations, 43 CFR Part 46, the Bureau of Reclamation (Reclamation) intends to prepare an Environmental Impact Statement (EIS) on the NGS-KMC Project. The Proposed Action would provide Federal approvals and/or decisions necessary to continue the operation and maintenance of NGS-KMC facilities through December 22, 2044, including, but not limited to:

- a. Peabody Western Coal Company's (PWCC) proposed revision to the Surface Mining Control and Reclamation Act of 1977 (SMCRA) Permit and life-of-mine (LOM) plan to identify the timing and sequence of continued coal mining operations through December 22, 2044, to incorporate existing shared support facilities from the former Black Mesa Mine into the Kayenta Mine, and to relocate a portion of an existing road;
- b. A proposed amendment to the NGS site lease and right-of-way issuances or renewal(s), as approved by the Navajo Nation Council, to provide continued economic benefits to the Navajo Nation and the generation of long-term, reliable, and cost-effective

power on a timely basis by NGS (using reliable and readily accessible fuel, transmission systems and water conveyance facilities) through December 22, 2044;

c. Federal consents and other approvals needed to continue the United States' participation in NGS to supply power and energy to operate the Central Arizona Project (CAP) pumps, and Reclamation's continued sale of NGS power (surplus to CAP needs) to produce revenues that are deposited to the Lower Colorado River Basin Development Fund (Development Fund); and

d. Other Federal approvals needed to continue the operation of NGS after 2019, including, but not limited to, Federal approvals relating to rights-of-way, electric transmission lines and related facilities, water service and water conveyance facilities.

Other Federal and tribal actions also would be needed under the proposed action. Reclamation has invited the following Federal and tribal action agencies to become cooperating agencies: the Bureau of Indian Affairs (BIA), Office of Surface Mining Reclamation and Enforcement (OSMRE), Bureau of Land Management, Fish and Wildlife Service, and National Park Service (collectively, DOI); U.S. Environmental Protection Agency; U.S. Department of Agriculture, Forest Service; Department of Labor Mine Safety and Health Administration; U.S. Department of Energy, Western Area Power Administration; the Navajo Nation; and the Hopi Tribe. Federal, tribal, state, and local agencies, along with other stakeholders that may be interested in or affected by the Federal agencies' decisions on the Project, are invited to participate in the scoping process and, if eligible, may request or be requested by Reclamation to participate as a cooperating agency.

**Background.**

The NGS is a coal-fired power plant located on Navajo Reservation trust land near Page, Arizona. NGS provides baseload power to over 1 million customers in Arizona, California and Nevada. It is the primary source of electricity for operation of the CAP. The CAP, a Federal reclamation project constructed by Reclamation, delivers Colorado River water to tribal, agricultural, municipal, and industrial water users in Maricopa, Pinal, and Pima counties, Arizona. The Salt River Project Agricultural Improvement and Power District (SRP) is the operating agent of NGS and holds a 21.7% ownership interest in NGS on its own behalf. SRP also holds a 24.3% ownership interest in NGS for the use and benefit of the United States of America. NGS's other owners are Arizona Public Service Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company, and Tucson Electric Power Company. These owners, SRP, and the United States are collectively referred to as the "NGS Participants."

The Co-Tenancy Agreement for the NGS, dated March 23, 1976, (Co-Tenancy Agreement) among the NGS Participants establishes the terms and conditions relating to the NGS Participants' interests in NGS and its related facilities, and establishes certain rights and obligations of the parties. In general terms, the Co-Tenancy Agreement allows the United States to participate in the decisions that affect Federal interests at NGS, and requires consent from the United States concerning agreements and actions that affect the Federal interest at NGS.

Federal Authority for NGS Contracting. The source of the United States' legal authority to enter into agreements to participate as an NGS Participant is the Colorado River Basin Project Act of 1968 (82 Stat. 885). The Colorado River Basin Project Act provides that the United States "may enter into agreements with non-Federal interests

proposing to construct thermal generating powerplants whereby the United States shall acquire the right to such portions of their capacity, including delivery of power and energy over appurtenant transmission facilities to mutually agreed upon delivery points, as...required in connection with the operation of the Central Arizona Project.” Current operation of NGS specifically includes contracts entered into by the Secretary of the Interior to provide a source of power and energy to operate the CAP, and to provide a source of revenue for the Development Fund, to implement Indian water rights settlements described in the Arizona Water Settlements Act of 2004 (118 Stat. 3478), and for other statutory purposes. The Secretary of the Interior has delegated the authority to carry out NGS contracts to Reclamation. Reclamation also serves as the Contractor for the existing Water Service Contract supplying Colorado River water to NGS, which expires on December 31, 2033. Pursuant to the Colorado River Storage Project Act of 1956 (70 Stat. 105), and other Federal reclamation laws, Reclamation must negotiate and approve the terms of any extension of the Water Service Contract after this date.

Current NGS Operation. SRP operates NGS on the Navajo Reservation pursuant to an Indenture of Lease with the Navajo Nation for the plant site, which has been in effect since December 23, 1969 (the NGS Lease). The initial term of the NGS Lease is 50 years (i.e., through December 22, 2019). Additionally, a Grant of Right-of-Way and Easement issued by DOI (323 Grant) encompasses the plant site, and another 323 Grant and Easement was issued for an adjoining railroad. The initial term of the 323 Grant for the NGS plant site expires at the end of 2019, while the initial term of the 323 Grant for the railroad expires in 2021. NGS is served by the western and southern transmission systems, each of which is supported by a 323 Grant. Off-reservation, these systems are

supported by grants of easement from other agencies. The southern transmission system extends south from NGS to just north of Phoenix, Arizona; the western transmission system extends west from NGS to near Las Vegas, Nevada.

Because of the expiring leases and rights-of-way, continued operation of NGS beyond December 22, 2019 requires approval from multiple Federal agencies, including the BIA. 25 U.S.C. Part 415(a) provides for the lease of lands on the Navajo Reservation, with approval of the Secretary of the Interior, for "...business purposes, including the development or utilization of natural resources in connection with operations under such leases," for up to 99 years. In accordance with Federal regulations, 25 CFR Part 169, renewal or reissuance of the grants is sought through application to the BIA.

Current Kayenta Mine Operation. Coal that fuels NGS is supplied by the Kayenta Mine, operated by Peabody Western Coal Company (PWCC) and located on the Navajo Reservation and former Joint Use Area of the Navajo and Hopi Reservations. Like NGS, the operation of the Kayenta Mine requires approval from multiple Federal agencies. PWCC currently holds an active SMCRA Permit (Federal Permit Number AZ-0001E) that authorizes PWCC to mine within the Kayenta Mine permit area. PWCC is seeking to revise its SMCRA Permit and LOM plan for the Kayenta Mine in order to adjust and identify the timing and sequence of mining operations in certain coal resource areas through 2044 and to relocate portions of an existing road. PWCC is currently authorized to continue mining at the Kayenta Mine post-2019, but the proposed revisions to the SMCRA Permit and LOM plan permit would increase operational efficiency. Additionally, PWCC is seeking to modify the existing permit boundary to incorporate

into the Kayenta Mine permanent program permit area facilities located on the adjacent and now closed Black Mesa Mine that are currently being used to support the Kayenta Mine operations. Upon incorporation of these mining support facilities into the Kayenta Mine permit area, the future operation, if approved, would be identified as the KMC. The proposed KMC permit boundary expansion does not propose future mining of the coal resources remaining at the Black Mesa Mine.

In addition to the NGS Lease, 323 Grants, the KMC permit, and LOM plan, many of the agreements and approvals for the current operations at NGS and the Kayenta Mine will require reauthorization or revision in the near future. Multiple Federal decisions must be made in order for the needs currently served by NGS and NGS-related activities to continue to be met. Further, as provided in the Co-Tenancy Agreement, SRP must obtain the prior written consent of the United States for actions that would affect the interest in NGS held by SRP for the use and benefit of the United States.

**Purpose and Need for the Proposed Federal Actions.** As an NGS Participant, Reclamation needs to respond to the expiring arrangements for the continued operation of NGS. Reclamation's purpose for the proposed action is to secure, after 2019, a reliable source of power and energy that would be continuously available to operate the CAP pumps and sold as surplus power. Reclamation is authorized to sell NGS power that is excess to its needs and deposit revenues from sale of this "surplus" power to the Development Fund; these revenues are used annually to assist in the repayment of the CAP and defray costs of Indian water rights settlement-related projects. Consistent with the Federal reclamation laws, Reclamation also must negotiate and approve the terms of any extension of the Water Service Contract after 2033.

The OSMRE is responsible for carrying out the requirements of SMCRA in cooperation with States and Tribes. As the regulatory authority on Indian Lands, OSMRE is responsible for ensuring that the operation of the KMC would be in accordance with all SMCRA requirements, including all applicable environmental performance and reclamation standards. Accordingly, OSMRE needs to respond to PWCC's SMCRA Kayenta Mine permit revision application and proposed mine plan and determine whether to approve, approve with special conditions, or disapprove the application, in accordance with the requirements of SMCRA. OSMRE's purpose for the proposed action is to implement the environmental protections, reclamation standards, and other permitting requirements under SMCRA while balancing the United States' need for continued domestic coal production with protection of the environment. (See 30 U.S.C. § 1202.)

The BIA must decide, consistent with the requirements of 25 U.S.C. Part 415(a) and 25 CFR Part 169, and subject to the consent of the Navajo Nation, whether or not to approve the NGS Lease amendment and other right-of-way issuances or renewal(s), which would allow for the continued operation of the NGS on Navajo Nation land through December 22, 2044.

Each of the Federal decisions at issue must be consistent with Federal Indian policies, including, but not limited to, a preference for tribal self-determination and promoting tribal economic development, for all tribes affected by these Federal decisions.

**Project Proponents' Interests.** The non-Federal NGS Participants seek to continue operation of the NGS beyond the current lease agreement termination date of December 22, 2019, through December 22, 2044. The NGS provides continuous, long-



term, reliable, and cost-effective baseload power to its customers in the southwestern United States using a reliable and readily available fuel source, coal from the Kayenta Mine. PWCC desires to continue to provide an uninterrupted coal supply to NGS in order for NGS to continue power plant operations through December 22, 2044.

**Alternatives and Related Impacts Under Consideration.** Following are some alternatives that are currently being considered for inclusion in the EIS. These alternatives are preliminary and may be modified or eliminated following scoping. Additional alternatives may be added for consideration after scoping.

- Proposed Action – Under the Proposed Action, Reclamation and other Federal agencies would provide Federal approvals and/or decisions necessary to continue the operation and maintenance of the NGS-KMC facilities through December 2044. NGS operations would be in compliance with the forthcoming Federal Implementation Plan for Best Available Retrofit Technology under the Clean Air Act, and applicable law.
- Partial Federal Replacement Alternative – Under this alternative, the Federal actions described above for the Proposed Action would occur; some portion of the United States' share of energy generated by NGS would be replaced by energy generated from renewable resources or generation that reduces emissions from existing levels. NGS operations would be in compliance with the forthcoming Federal Implementation Plan for Best Available Retrofit Technology under the Clean Air Act and other applicable law. The degree to which this alternative may be able to generate revenue for the Development Fund would need to be analyzed.

- Total Federal Replacement Alternative – Under this alternative, the United States’ total share of energy generated by NGS would be replaced by energy generated from renewable resources or generation that reduces emissions from existing levels. The degree to which this alternative may be able to generate revenue for the Development Fund would need to be analyzed.
- No Action Alternative – Under this alternative, Reclamation and other Federal agencies would not provide the Federal approvals and/or decisions necessary to continue the operation and maintenance of the NGS and Kayenta Mine facilities through December 2044. NGS would cease operation on December 22, 2019, and would not provide a source of power and energy to operate the CAP pumps or provide revenues for the Development Fund. The plant lease amendment and associated rights-of-way would not be approved by the BIA and other Federal agencies. The proposed revisions to the SMCRA Permit and LOM plan would not be approved by OSMRE. Reclamation would not enter into a water service contract to provide water service through December 22, 2044.

Currently topics being considered for inclusion in the EIS include, but are not limited to, the following:

- Air quality;
- Biological resources, including traditional culturally sensitive species;
- Climate change;
- Cultural and historic resources, traditional cultural properties, and sacred sites;
- Environmental justice;

- Indian Trust Assets;
- Public health;
- Socioeconomic resources; and
- Water resources including surface and groundwater quantity and quality.

As part of its consideration of impacts of the proposed Project on threatened and endangered species, Reclamation will conduct formal consultation with the Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act, 16 U.S.C. 1536, and its implementing regulations, 50 CFR Part 400. Formal consultation will consider direct and indirect impacts from the proposed Project, including continued operation and maintenance of NGS, KMC, and their associated facilities and existing transmission systems, as well as cumulative impacts.

Reclamation will conduct compliance with Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, as provided for in 36 CFR 800.2(d)(3) concurrently with the NEPA process, including public involvement requirements and consultation with the State Historic Preservation Officer(s) and Tribal Historic Preservation Officer(s). Native American tribal consultations will be conducted in accordance with applicable laws, regulations, and DOI policy, and tribal concerns will be given due consideration, including impacts on Indian Trust Assets.

**Public Scoping Meeting Information.** Ten public scoping meetings will be held to provide an overview of the project and allow public comment and discussion:

1. Tuesday, June 10, 2014, 4 p.m. to 7 p.m., Navajo Nation Museum, Resource Room, Highway 264 Postal Loop Road, Window Rock, Arizona.

2. Wednesday, June 11, 2014, 4 p.m. to 7 p.m., Forest Lake Chapter House, 14 miles north of Pinon on Route N-41, Arizona.
3. Thursday, June 12, 2014, 4 p.m. to 7 p.m., Monument Valley High School, Cafeteria, 2 miles north of Highway 160 on Highway 163, Kayenta, Arizona.
4. Friday, June 13, 2014, 4 p.m. to 7 p.m., Shonto Chapter House, Building S001-001, E. Navajo Road 221, Arizona.
5. Saturday, June 14, 2014, 1 p.m. to 4 p.m., Hopi Day School, Multipurpose Room, Half mile East of Village Store on Highway 254, Kykotsmovi, Arizona.
6. Monday, June 16, 2014, 4 p.m. to 7 p.m., LeChee Chapter House, 5 miles south of Page off of Coppermine Road, LeChee, Arizona.
7. Tuesday, June 17, 2014, 4 p.m. to 7 p.m., City Hall Townhouse, 605 S. Navajo Drive, Page, Arizona.
8. Wednesday, June 18, 2014, 4 p.m. to 7 p.m., Tuba City High School Cafeteria, Warrior Drive, Tuba City, Arizona.
9. Thursday, June 19, 2014, 4 p.m. to 7 p.m., Phoenix Convention Center, Room 129AB, 100 N. Third Street, Phoenix, Arizona.
10. Friday, June 20, 2014, 4 p.m. to 7 p.m., Marana High School Cafeteria, 12000 W. Emigh Road, Tucson, Arizona.

Navajo interpreters will be present at meetings on the Navajo Reservation and at Kykotsmovi, and Hopi interpreters will be present at meetings in Kykotsmovi and Tuba City, AZ.

**Special Assistance for Public Scoping Meetings**

If special assistance is required at the scoping meetings, please contact Ms. Sandra

Eto at (623) 773-6254, or e-mail your assistance needs to [NGSKMC-EIS@usbr.gov](mailto:NGSKMC-EIS@usbr.gov), along with your name and telephone number. Please indicate your needs at least 2 weeks in advance of the meeting to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified.

**Public Disclosure**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 12, 2014\_\_\_\_\_

Signed: \_\_\_\_\_  
David Palumbo.  
Deputy Regional Director, Lower Colorado Region

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